

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**GARY DEWAYNE ALLEN**

**PETITIONER**

**VERSUS**

**CIVIL ACTION NO. 1:11-cv-123-HSO-JMR**

**REGINA HANCOCK**

**DEFENDANT**

**ORDER ADOPTING REPORT AND RECOMMENDATION AND DENYING  
PETITIONER'S MOTION "TO ALLOW ME TO FILE A POST CONVICTION  
RELIEF IN THE COUNTY OF GEORGE LUCEDALE MISSISSIPPI"**

This matter is before the Court on the Report and Recommendation [49] of Chief Magistrate Judge John M. Roper, entered in this cause on May 21, 2013. On March 19, 2013, Petitioner Gary Dewayne Allen filed a Motion [47] requesting the Court "to allow me to file a post conviction relief in the County of George Lucedale Mississippi." Pet.'s Mot. [47] at p. 1. The Magistrate Judge construed Petitioner's Motion as "ultimately seek[ing] the Court's permission to entertain a second § 2254 petition." Rep. and Rec. [49] at p. 1. The Magistrate Judge found that this Court is without jurisdiction to consider the Petitioner's Motion [47] because Petitioner has not "obtain[ed] an order from the appropriate court of appeals authorizing the district court to consider the petition as required by 28 U.S.C. §§ 2244(b)(3) and (4)." Rule 9, Rules Governing Section 2254 Cases in the United States District Court; *see* Rep. and Rec. [49] at p. 2.

The Clerk of Court mailed the Magistrate Judge's Report and Recommendation [49] to Petitioner via certified mail, and Petitioner signed an Acknowledgment of Receipt [50] on May 24, 2013. The Report and Recommendation advised Petitioner that he had fourteen days from the date he received the Report and Recommendation to serve and file written objections. Rep. and Rec. [49] at p. 2. Petitioner has not filed any objection to the Report and Recommendation, and the time for doing so has passed.

Where a party fails to file specific objections to a magistrate's proposed findings of fact and recommendation, the district court reviews the proposed findings of fact and recommendation for findings and conclusions that are clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1); *see United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989). The Court finds that the Magistrate Judge properly recommended that Allen's Motion [47] be denied. After referral of hearing by this Court, no objections having been filed as to the Report and Recommendation, and the Court, having fully reviewed the same as well as the record and relevant law in this matter, and being fully advised in the premises, finds that the Report and Recommendation is neither clearly erroneous nor contrary to law and should be adopted in its entirety as the opinion of this Court.

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that, the Report and Recommendation [49] of Magistrate Judge John M. Roper is adopted in its entirety as the opinion of this Court.

**IT IS, FURTHER, ORDERED AND ADJUDGED** that, the Petitioner Gary Dewayne Allen's Motion [47] "to allow me to file a post conviction relief in the County of George Lucedale Mississippi," is **DENIED**.

**SO ORDERED AND ADJUDGED**, this the 20th day of June, 2013.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN  
UNITED STATES DISTRICT JUDGE